as a guise to gain evidence for a criminal case (A. 18–19). The district court denied the motion (A. 37). After the trial, petitioner reiterated his contention that evidence obtained by abuse of tax investigation procedures had been used against him, and in support of this contention relied upon "Exhibit 18", an Internal Revenue Service internal report on the investigation that had then been made available to petitioner's counsel.[*] The district court analyzed this investigation report, the reports of the Internal Revenue Service interviews with three McLouth employees and the *voir dire* testimony of agent Culver, who handled the tax investigation about which petitioner complains (see A. 427–428). It concluded that all of these materials made clear that there was no improper use of the tax investigation and that there was no issue of fact requiring an evidentiary hearing on this subject (A. 91–94). The court of appeals agreed, pointing out that its "careful examination of the record, including Exhibit 18 which was prepared by an IRS agent for use within that organization, fails to reveal any abuse of process. * * * We do not find that the IRS investigation here exceeded the limits necessary to ascertain Donovan's tax situation" (Pet. App. 5).

The petition raises this matter once again (in the

[*] The trial court permitted defense counsel, but not petitioner, to inspect the document and then placed it under protective order. The court of appeals continued the protective order limiting access to the document to petitioner's counsel. On May 12, 1970, Mr. Justice Brennan denied the application for relief from the protective order. That document is presently lodged with this Court. No issue is now made of the handling of the document in the courts below.

typewritten supplement appended to the printed document), conceding apparently (p. 7) that the investigation had a *bona fide* tax purpose, but arguing nonetheless that the circumstances required a hearing to determine whether the investigation also had an illegitimate purpose with respect to the present criminal proceeding. But petitioner does not say what evidence of impropriety he would have adduced apart from the documents and testimony that have been carefully scrutinized by both courts below, which correctly concluded that these materials showed that the tax investigation had been entirely proper. Thus, there was no occasion to explore the facts further: the case involves simply a situation where a bona fide tax investigation uncovered incidentally evidence of other criminal violations. And both courts below correctly held that this simple fact in no way inhibits the government from proceeding with respect to the other violations. See *Abel* v. *United States*, 362 U.S. 217; *United States* v. *Kordel*, 397 U.S. 1; cf. *Gagliardo* v. *United States*, 394 U.S. 310, and *Tagliaferri* v. *United States*, 394 U.S. 316.[7]

[7] This case bears no significant relationship to *Donaldson* v. *United States*, No. 942, 1969 Term, to which petitioner refers in arguing that certiorari should be granted. In *Donaldson* the issue on the merits (which will not be reached if the Court accepts our argument that the petitioner there was properly denied intervention in the summons enforcement proceeding) is whether an internal-revenue summons should be denied enforcement because the investigation may result in a criminal tax prosecution; the question here is the fundamentally different one whether information obtained as an incident of an acknowledgedly proper tax investigation can be used in connection with a non-tax criminal prosecution.